

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CRAIG WEIGHALL,

Plaintiff,

v.

LT. PEA, *et al.*

Defendants.

Case No. 06-5663 RBL/KLS

ORDER DENYING SECOND
MOTION FOR APPOINTMENT OF
COUNSEL

Before the Court is Plaintiff's second motion for appointment of counsel. (Dkt. # 47). Plaintiff's first motion for counsel (Dkt. # 8) was denied on January 12, 2007. (Dkt. # 11). Having reviewed the present motion, the Court finds for the reasons stated below that Plaintiff's motion should be denied.

I. DISCUSSION

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before

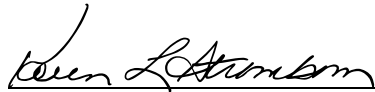
1 reaching a decision on request of counsel under Section 1915(d). *Id.*

2 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* and has not
3 demonstrated that the issues involved in this case are complex or that he has had any difficulties in
4 expressing them. Plaintiff is articulate and brings his claims in a very clear and organized manner.
5 While Plaintiff may not have vast resources or legal training, he meets the threshold for a *pro se*
6 litigant.

7 Plaintiff has raised no new exceptional circumstances that were not addressed or considered
8 in his first motion. Accordingly, the Court continues to find that counsel is not necessary in this
9 case and Plaintiff's motion to appoint counsel (Dkt. # 47) is **DENIED**.

10 The Clerk is directed to send copies of this Order to Plaintiff and counsel for Defendants.

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12 DATED this 26th day of March, 2008.

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16 Karen L. Strombom
17 United States Magistrate Judge
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